

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AMRAVATI ZONE, AKOLA.**

*“Vidyut Bhavan”,
Ratanlal Plots,
Akola: 444 001
Tel.No.2434476*

Dt-12/04/2013

Complaint No.16 & 17/2013

In the matter of Shri Rajendraprasad J.Tardeja,Akot for applicability of revised tariff.

Quorum :

Shri T.M.Mantri,	Chairman
Shri P.B.Pawar,	Secretary
Shri A.S.Gade	Member

Shri Rajendraprasad J.Tardeja, Akot

... Complainant

...VS...

MSEDCL Rural Dn. Akola

... Respondent

1 The complainant is claiming applicability of revised tariff as per MERC order w.e.f. 1/8/13 so also claiming refund of excess tariff recovered from him along with interest @12%. The complainant is also seeking compensation @ Rs.100/-per week from 30/9/12 till change of tariff, as per regulations along with cost of Rs.2000/-. In substance the complainant's case is that in case No.19/2012, on 16th August,12 MERC has specifically shifted commercial consumers falling under LT-II to LT-I tariff, whose consumption is less than 3600 units, as per Annexure-A. It is alleged that on 5/9/12 the complainant approached the distribution licensee for making compliance of the order of the commission (Annexure-2) In spite thereof the N.A.licensee has sought NOC of local authority, though the complainant is pre-existing consumer, having complied with all statutory requirements while taking connection.

2 Reference of Regulation 13 of supply code has been made and averred that it is a N.A.licensee to take appropriate steps, failing above liable for compensation @Rs.100/- per week, hence the complainant has sought the reliefs prayed for.

3 Notice as per regulations issued to the concerned office of the N.A.licensee for its reply to the complaint. Reply came to be filed, wherein virtually the averments made in the complaint have been reproduced. It is alleged that as per commercial circular No.177 dt.25/9/12 wherein guidelines have been given for making compliances and as per the requirements the complainant has been asked to submit NOC of the local authority, thereafter the inspection of the spot and panchnama is required to be carried out. The complainant was informed about the same with idea that after making compliances, the proposal would be submitted to the higher office. The complainant did not respond to the letter sent to him but only insisting that he has already made compliances at the time of seeking of the connection.

4 Reference has been made to order passed by MERC in 19/2012 so also to commercial circular No.175 of the N.A.licensee dt. 5/9/12. It is stated that these circulars have been issued so that undeserved consumer should not get benefit and further stated that the detail provisions made therein. The office of the N.A.licensee is not responsible for the delay but it is the complainant who has not submitted requisite certificate, hence the matter is pending so he be directed to make compliances.

5 The matter was then posted for arguments. Heard Shri Ashish Chandarana, the learned representative for the complainant and Shri Prashant Kalore, A.E.Akot the learned representative for the N.A.licensee. Before advancement of oral submissions by the parties, written notes of arguments came to be filed alongwith copies of the bunch of documents, on behalf of the complainant, one set thereof is given to the learned representative for the N.A.licensee. During course of arguments the learned representative for the complainants has submitted that reply in the present proceeding is not filed and signed by the Competent Authority but it is signed by A.E. According to him as per regulations he cannot act as Nodal Officer. When query was made with the learned representative of the N.A.licensee there was no answer from his side, he only submitted that as per directions of superiors, he has signed it and attending the proceeding in pursuance, authority given to him, which is filed on record.

6 Alongwith the notes of arguments the learned representative for the complainant has filed copies of certain documents including that of relevant part of order in case No.19/2012 given by MERC. The relevant portion thereof is at page No.315 and 316

which deals with LT: I LT : residential then it has been elaborated applicability thereof to various places (a) & (e) above, it is clarified –

LT I: LT- Residential

Applicability

Electricity used at Low/Medium Voltage for operating various appliances used for purposes like lighting, heating, cooling, washing/cleaning, entertainment/leisure, water pumping in the following places:

- a) Private residential premises, Government/semi-Government residential quarters.
- b) -----
- c) -----
- d) -----
- e) -----
- f) -----
- g) -----
- h) -----
- i) -----
- j) -----
- k) -----
- l) -----

This category is also applicable for all consumers under LT II (Non-residential or Commercial), LT-V (LT Industries) and LT-X (Public service) who consume less than 300 units a month, and who have consumed less than 3600 units per annum in the previous financial year. The applicability of this Tariff will have to be assessed at the end of each financial year. In case any consumer has consumed more than 3600 units in the previous financial year, then the consumer will henceforth not be eligible for Tariff under this category.

Accordinging the learned representative of the complainant in case No.127 of 11 direction was given by Hon.ble MERC to MSEDCL for incorporating suitable tariff proposal in respect of consumers carrying on commercial activities from the residence and by making reference of the relevant part of the order in 2012 ruling of the

commission in case No.19/2012 has been referred to. It has been argued by the learned representative for the complainant that the said relevant part of the said order Annex.3 with notes of arguments. It is also pointed out that the N.A.licensee has issued press note immediately thereafter. Copy of which is placed on record A-1 to Annexure A/4 with the written notes of arguments and attention of the forum has been drawn to silent features of the order passed by the commission in 19/12 more particularly at clause No.(i). So also reference has been made to brief presentation given by N.A.licensee to the press as per Annexure-5 with notes of arguments, under the head "Important Provisions" and pointed out that even as per N.A.licensee, this will benefit over 3.5 lakhs consumers. According to him as the N.A.licensee has failed to make compliance of the tariff order in case No.19/12 proceeding under section 142 and 146 of Electricity Act, have been initiated by Maharashtra Veej Grahak Sangh, wherein the Hon.ble commission after finding prima-facie case, has issued show cause notice and reference to Annexure with notes of arguments A-6. Of said show case notice is made. According to him inspite such available material and steps taken by the N.A.licensee itself, so also the cognizance taken by MERC for non-compliance, untenable reasons are being putforth seeking compliances to be carried out by the complainant, such as obtaining NOC of local authority, panchanama, spot inspection etc. He has submitted that the alleged circular are not in consonance with the order passed by MERC and N.A.licensee cannot take aid thereof, in dealing the compliances of the order of MERC.

7 When the learned representative of the N.A.licensee was asked as to what he wants to say in view of production of documents from the side of the complainant, referred to above, his short reply was that except written reply filed in the proceeding he has nothing to add. Though he has gone through the contents of the various documents, but nothing has been submitted in those respects. The said order of MERC is crystal clear, there is no ambiguity and the tariff fixed therein. Even according to the N.A.licensee, benefit thereof would be available to more than 3.5 lakhs such consumers, immediate press note, so also brief presentation to the press, as referred to above, having not been disputed from the side of the N.A.licensee, cognizance thereof is required to be taken. Similarly the record clearly shows that in similar kind of grievance, for non-compliance, Maharashtra Veej Grahak Sangha had approached Hon.ble MERC, who has issued show cause notice. The available material on record clearly demonstrates that the concerned office of the N.A.licensee has to implement the order i.e. tariff fixed therein and not for making excuses as put forth in the present

order, consequently this forum is of the view that there is failure on the part of the concerned office of the N.A.licensee in making compliances with the order/directions of MERC. As is clear from record the complainant had approached the concerned office of the N.A.licensee vide Annexure A-2 with the complainant and the concerned office of the N.A.licensee has replied the same with un-dated letter calling upon the NOC and other documents as referred to above. During course of arguments it has been revealed that the contention of the complainant that his yearly consumption is below 3600 units has not been disputed from the side of the N.A.licensee. On going through the copy of CPL also, it reveals that the bill is within the limit of 300 units per month.3600 per annum. Consequently the complainant is entitled for benefit of the order of MERC in respect of the tariff.

8 From the above more particularly order LT:I : Category is also applicable for LT-II (non residential or commercial), LT-V (LT industries) and LT-X (Public Service) who have consumed less than 3600 units per annum in the previous financial year. The complainant is entitled for the said tariff.

9 The complainant has also claimed compensation for failure in maintaining SOP @ 100/-per week from 30/9/12. Suffice to say that claiming from that particular date is not explained and has no base. Admittedly in Sept.12 complainant has written the letter. As per Appendix A, clause u(ii) of SOP 2005 regulations standard prescribed for change of tariff category is second billing cycle. It has not been brought on record the date of issuing of bills but as per submissions the energy bill for the past month is issued in next month, so consequently the bill for Sept.12 is to be issued in Oct. and consequently the second billing cycle will be in Nov.12 in view of letter of the complainant, consequently the compensation as provided under the said regulations Rs.100/-per week will be applicable from 30th Nov, till the tariff is changed. Though the complainant has also asked for refund of excess amount, suffice to say that the same if in excess, is found the same should be adjusted in the compensation payable to the complainant. The claim of the complainant for cost of Rs.2000/- in the light of background of the proceeding cannot be awarded. The complainant is being awarded compensation as referred to above consequently the appropriate order in terms needs to be passed.

10 The complainant has also filed complaint 17/2013 for his other place in user for commercial purpose (Prerana Agency) for the same and identical averments. The

N.A.licensee has also replied the said complaint by identical reply as referred to above and during course of arguments, same arguments have been adopted by both the parties. Though in reply as well as during course of arguments nothing was submitted on behalf of the N.A.licensee in respect of actual consumption/user of the electricity by the complainant, at this premises, however this forum has called for CPL of the consumer and on going through the entries in CPL, it was revealed that the annual consumption during the year was much more than 3600 units i.e. about 4751 units. When this was pointed out to the learned representative of the complainant he has fairly submitted that in that case he will not be entitled for benefit of the said tariff order as claimed for. In fact it was for the complainant to come with clean hands and disclose all the facts. It has not been done so, it can be said that the complainant was worrying of his consumption of electricity units and had filed proceeding to take a chance. Complainant being not approached to the forum with clean hands, is not entitled for any relief as far as this complaint no. 17/13 is concerned. In any case even as per the order of MERC in the above referred clause, is not entitled for any benefit of the said tariff order and consequently his complaint 17/2013 is liable to be dismissed. It will be just and appropriate to impose some fine or cost against the complainant for involving N.A.licensee, in unwanted litigation.

11 Here it needs to be mentioned that the N.A.licensee to take appropriate steps including giving directions to the concerned officer to sign the reply and to represent the licensee, as per regulations, so as to avoid consequences of non-compliance of regulations, only on that ground, which may adversely affects the interest of the N.A.Licensee.

12 In view of the above observations and conclusions the forum proceeds to pass following unanimous order.

ORDER

1) Complaint 16/2013 is hereby partly allowed. The N.A.licensee is directed to make applicable tariff LT-I, as per order of MERC under 19/2012 immediately, so also N.A.licensee is directed to pay compensation of Rs100/-per week from 30th Nov.12, till applicability of the said tariff to the complainant, including that of making adjustment of excess payment made by the complainant during intervening period. Needless to say that the amount so arrived at is to be adjusted in the forthcoming bills of the complainant.

2) As far as complainant 17/2013 is concerned it is hereby dismissed by imposing cost of Rs.1000/- payable by the complainant to the N.A.licensee. The N.A.Licensee to adjust the same against monitory liability payable by it to the complainant in pursuance to the order. The N.A.Licensee to issue appropriate direction to all the concerned officers to act and make compliances as per regulations.

3) Compliance report to be submitted within a period of three months from the date of receipt of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman